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September 17, 2019
Via ECFS Filing

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Ms. Dortch:

Data Tech, Inc. ("Data Tech") submits this letter in response to the FCC Access Stimulation Draft Order released on September 5, 2019. Founded in 1992, Data Tech has over 20 years of inter-carrier billing and CABS expense experience. Our prime expertise areas are carrier access invoicing (switched and wholesale ethernet), access expense validation, collections, disputes management and CDR mediation/analysis/business intelligence. When I reviewed the draft order, it raised a number of concerns in connection with my CLEC and RLEC clients.

In its draft order, the FCC has changed its definition of an access stimulator. Under the proposed rules, a LEC engaged in access stimulation is now defined with the new trigger as:

> "A rate-of-return local exchange carrier serving end user(s), or a Competitive Local Exchange Carrier serving end user(s), engages in Access Stimulation when it satisfies either paragraph (bbb)(1)(i) or (bbb)(1)(ii) of this section….(ii) The rate-of-return local exchange carrier or a Competitive Local Exchange Carrier has an interstate terminating-to-originating traffic ratio of at least 6:1 in a calendar month."

In distinguishing access stimulators from non-access stimulators, the above definition is much too general for the following reasons:

> - Many CLECs target business and enterprise customers either primarily or exclusively. The ratio of inbound calls to business subscribers vs. residential subscribers can vary significantly. For example, businesses will receive many more inbound calls relative to their outbound calls than residential end users will (e.g., call centers).
>
> - Residential subscribers - With the propagation of wireless use, an increasing number of residential subscribers do not use their landline phones to make calls, but still receive calls (i.e., campaign calls, telemarketing calls, group calling for student sports, weather alerts, etc.) often answered by voicemail and checked later. I am speaking from personal experience on this and am not alone.

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- The definition is too vague, as it does not specify billed minutes vs. recorded minutes. Due to inbound inter-carrier compensation largely being moved to Bill & Keep, many LECs and CLECs have moved away from presenting some or all of their inbound traffic on switched access CABS bills. Billed minutes of usage (MOU) would be the best vehicle to determine balance; however, it would be burdensome and possibly expensive for both the LECs and the IXCs to deal with a large amount of zero-rated traffic on CABS bills. If reporting on recorded MOU were to be used to monitor balance as a supplement to CABS billing, then that creates a whole new set of burdens for both the LECs and IXCs. It appears the order is worded that the ratios are based on Interstate traffic. If that is the case, then this complicates the issue further and requires an extra layer of pre-bill massaging in the mediation process.

The typical terminating/originating ratio for billed access minutes varies based on a number of variables. Residential subscribers historically are pretty close to 1:1 if they use their landline. Business subscribers can be as high as 4:1 - sometimes greater. If the subscriber is a call center and inbound 8YY counts in the ratio calculation (since it is largely interstate, I assume it would), then that subscriber could be a high volume 10:1 subscriber and skew the remainder of the subscriber ratios dramatically.

As I have mentioned above, the wording of the rule is open to multiple interpretations. Good CABS billers historically rose to meet compliance and regulatory changes (i.e., Local Transport Restructure (in the early 90's), 3:1 ISP ratio billing, PVU (Percent VoIP Utilization), etc.). As the value of CABS diminishes, the last thing system providers want to do is invest in massive system changes to support rulings whereby their customer loses money which further devalues it and may cost LECs money in additional fees for processing usage just to have it presented on a bill to support a ratio. In the past, we have seen ICAs which called for billing only when the exchange of carriers exceeds a certain ratio. CABS systems were not designed to support that because they do not monitor the traffic of the other party to the ICA. This would be a similar challenge where the ratio measurement would have to be done outside the process, and frankly, neither the IXC nor the LEC would want to deal with it.

As a CABS biller, the implementation issues would be quite challenging. There is no advent in CABS today which allows for any billing carrier to do a mid-cycle bill change to render an invoice to a different carrier for the same traffic. Usage is billed to a carrier based on either OCN or CIC within the EMI record. ATIS EMI CAT 11, which is the standard CABS record feed, does not support this, nor does OBF SECAB or MECAB. The bottom line - any change to how CABS is done has far reaching impacts.

For someone who has been doing this work for many years, this draft order sounds to me as a very "knee-jerk" solution in search of a problem. This is a broad-brush "fix" with massive industry ramifications where the perpetrators of any significance are already known. The IXCs have proved that they can already spot perpetrators. Let them address it through the disputes and settlements process or through additional rulemaking, but not solve with a significant change in billing that affects every exchange carrier who bills CABS.

Sincerely,

Jon D. Jones
Data Tech, Inc.